

**IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

v.

Defendant.

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CASE NO.

Offense(s):

PETITION FOR PRETRIAL DIVERSION (V.G.C.S.A. Offenses)

COMES NOW the above-named Defendant, (by and through his/her counsel of record)(with the assistance of a Cherokee County Attorney of the Day), with the knowledge and consent of the undersigned Assistant Solicitor-General, and pursuant to O.C.G.A. § 15-18-80 hereby petitions the Court for admission and referral to the Solicitor-General's Pretrial Diversion Program, which shall be for a period of **150 days** from this date. As a result of this petition, this action will be dismissed or reduced upon completion by the Defendant of the following *initialed* terms and conditions during the term of the program:

- ____1. The Defendant shall meet with Cherokee Probation Services (CPS) *instanter* at the Frank Mills Justice Center for an initial sign up. Defendant shall attend an intake appointment with CPS on or about _____. The date and time for this intake appointment will be finalized at the initial sign up with CPS following entry into the program.
- ____2. The Defendant shall pay an administrative program fee of _____ *instanter*;
- ____3. The Defendant, having been determined to be indigent by the Office of Indigent Defense, has been appointed an attorney by the Court, and his/her appointment sheet is attached hereto. Therefore, the administrative program fee is waived for the Defendant upon completion of an **additional 40 hours of community service** and (payment) (proof of waiver) of the **\$50.00** fee required by the Office of Indigent defense.
- ____4. The Defendant shall provide a copy of a valid photo identification document to the State *instanter*;
- ____5. The Defendant shall waive his/her Right to Jury Trial, and waive his/her 4th Amendment Rights against unlawful search and seizure;
- ____6. The Defendant shall not violate the criminal laws of any governmental unit, or any conditions of bond in this case which are in effect on this date, and shall report any and all subsequent arrests or citations to CPS within 48 hours of arrest or citation;
- ____7. The Defendant shall stay away from and have absolutely no contact with any co-defendant(s) in this case, and shall testify truthfully at any trial or hearing of any co-defendant(s);
- ____8. The Defendant shall complete a Substance Abuse Evaluation within 30 days of entering this program, shall begin any treatment recommended by the evaluator within 10 days of the evaluation, and shall complete any and all recommended treatment;
- ____9. The Defendant shall not consume any alcohol, possess or use any illegal drugs, or consume any prescription drugs without a valid and current prescription;
- ____10. The Defendant shall submit to random breath or urine screens for the presence of alcohol or illegal drugs as directed by the Cherokee County Drug Lab at his/her own expense no less than twice per month. As part of this condition, the Defendant expressly understands and agrees that:
 - ____a. He/She must sign up for testing *instanter* through the Cherokee County Drug Lab and follow all rules and regulations for such testing;
 - ____b. All testing shall be at Defendant's expense and paid for by credit/debit card, or money order at the time of testing;
 - ____c. He/She must execute a release permitting his/her test results to be sent directly to the Solicitor-General's Office and CPS;
 - ____d. All testing must take place at the Cherokee County Drug Lab unless the Assistant Solicitor-General assigned to the case permits testing to be completed at an alternative certified, established drug and alcohol testing facility, and agrees to such alternative testing facility prior to the test;
 - ____e. Any diluted samples may cause the test to be counted as a failed test; second and subsequent diluted samples will be deemed a failed test and will result in termination from the program. Also, a second missed test will result in immediate termination from the program, regardless of the reason and without exception.
- ____11. The Defendant shall complete _____ hours of community service at a location approved by the Solicitor-General's Office, and provide verifiable proof of the completion of said community service;

IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA

Case No.

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*
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vs.

Defendant

WAIVER OF JURY TRIAL

Comes now, _____, by and through undersigned counsel and
waives his/her right to a trial by jury.

The defendant acknowledges the following:

1. That he/she is now and forever giving up his/her right to a trial by jury,
2. That defendant is giving up this right freely and voluntarily,
3. That any trial that may occur on these charges will now be a bench trial,
4. That defendant has been advised of the rights he or she is giving up and has gone over them with his/her attorney.

This the ____ day of _____, 20__

Defendant

Waiver Accepted by the Court:
This ____ day of _____ 20__

Attorney for Defendant
Ga. Bar Number _____

Judge, State Court of Cherokee County

Cherokee County Attorney of the Day
Ga. Bar Number _____

**IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA

*

*

v.

*

CASE NO. _____

*

*

_____,
Defendant.

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____, having petitioned to participate in the Solicitor-General's Pretrial Diversion Program, hereby consent to communication, within or outside my presence, regarding my medical, psychological, or substance abuse history among any of the following individuals: any evaluator or counselor, physician, psychiatrist, or psychologist who participates in any counseling or treatment required as a condition of this program, any representative of the Solicitor-General's Office designated by the Solicitor-General, Cherokee Probation, and my attorney. I further consent to the release of the results of any drug testing required as a condition of this program to the individuals described above, and that such results may be made part of the public record of my case in the event that such testing results in my termination from the program.

I understand and agree that the purpose and need for this disclosure is to assist the Solicitor-General's Office and Cherokee Probation in evaluating and determining my eligibility to participate in the Pretrial Diversion Program as well as my counseling needs, compliance and progress in accordance with program criteria. I hereby agree to hold such individuals harmless and relieve and release such individuals from any and all liability regarding any such communication.

Recipients of this information may not re-disclose it except in connection with my counseling or treatment, or otherwise as permitted by federal law and rules. I understand that this consent will remain in effect and cannot be revoked by me until there has been a formal and effective termination of my involvement with the Pretrial Diversion Program, and/or a formal discontinuation of court proceedings regarding my case.

Defendant

Date

IN THE STATE COURT OF CHEROKEE COUNTY
STATE OF GEORGIA

STATE OF GEORGIA * CASE NUMBER:

V. *

*

WAIVER OF FOURTH AMENDMENT RIGHTS

COMES NOW, _____, Defendant in the above styled case and states to the Court the following:

I understand that I have rights that protect me from unreasonable search and seizure.

I understand that these rights are guaranteed by the Fourth Amendment to the United States Constitution, as well as the Georgia Constitution.

I also understand that I can voluntarily give up these rights as part of a negotiated plea agreement as an acceptable alternative to incarceration.

I do hereby waive and give up the rights listed above, and do hereby consent to a search of my person, papers, personal effects, residence, vehicle, cell phone, computer, tablets, digital media storage, social media and bodily substances. I further consent that such a search may be conducted by my probation officer, Surveillance officer or by any law enforcement officer. I agree that such a search may be conducted without a warrant and without probable cause, articulable suspicion, or reasonable grounds. In any prosecution that may arise from said search, I consent to the admission of any evidence seized during such a search without further authentication or foundation.

Respectfully submitted this ____ day of _____, 20__.

Defendant

Attorney for Defendant

Assistant Solicitor General

Accepted in Open Court on this _____ day of _____, 20__.

Judge
State Court of Cherokee County

**In The State Court of Cherokee
County State of Georgia**

State of Georgia	*	Case No.
	*	
v.	*	Charges:
	*	
Defendant	*	Offense Date:

ORDER FOR FINGERPRINTING

The above matter came before the court on this date for hearing or disposition. The court was advised that charges herein involve an offense that is fingerprintable, and that the defendant herein was not booked in and fingerprinted at the time of the offense.

Accordingly, it is hereby ORDERED that the defendant report to the Cherokee County Justice Center, Suite G-120 **no later than ten (10) days** from the date of this order for the purpose of being fingerprinted in connection with this offense. Fingerprinting will be done Monday – Friday between the hours of 9am to 5pm. The Clerk shall provide the defendant with a copy of this order for presentation at the time of fingerprinting.

The defendant, upon presenting himself or herself to the Sheriff at the Cherokee County Justice Center, pursuant to this order, shall be fingerprinted and released on his or her own recognizance. Prior to release, the defendant shall be given a form provided by the Sheriff that proves that the fingerprinting was completed. Defendant shall bring the form back to court on the date set by the Clerk’s Office, showing proof to the Court that the fingerprinting was completed. **For any questions, please contact Katie Mills or Kelly Ventura at 678-493-6182.**

SO ORDERED AND ADJUDGED this ____ day of _____, 202_.

BY THE COURT:

Judge, State Court
Cherokee County

(Spanish translation of reverse side)

**Tribunal Estatal del Condado de
Cherokee Estado de Georgia**

Estado de Georgia	*	Número de causa:
	*	
contra	*	Cargos:
	*	
	*	
Acusado	*	Fecha del delito:

ORDEN PARA HUELLAS DACTILARES

El asunto arriba mencionado se ha presentado ante el juez en esta fecha para audiencia o resolución. Se le ha informado al juez que los cargos en este documento incluyen un tipo de delito para el que se requiere la toma de huellas dactilares, y que al acusado aquí mencionado no se le fichó ni se le tomaron las huellas dactilares al momento del incidente.

Por tanto, se ORDENA al acusado por la presente que comparezca al "Cherokee County Justice Center, Suite G-120" **a más tardar diez (10) días** a partir de la fecha de esta orden a fin de que se le tomen las huellas dactilares en relación con este delito. La toma de huellas dactilares se hará de lunes a viernes entre las 9 a. m. y las 5 p. m. El secretario le proporcionará al acusado una copia de esta orden para presentarla al momento de la toma de las huellas.

Una vez el acusado se presente ante el Sheriff en el "Cherokee County Justice Center", de conformidad con esta orden, se le tomarán las huellas dactilares y se le pondrá en libertad bajo palabra. Antes de ponérsele en libertad, la oficina del Sheriff le entregará al acusado un formulario que comprueba que se le tomaron las huellas dactilares. El acusado habrá de traer el formulario al tribunal en la fecha que fije la oficina del secretario del tribunal a fin de demostrar ante el Juez que se le tomaron las huellas dactilares. **Si tiene alguna pregunta, por favor comuníquese con Katie Mills o Kelly Ventura llamando al 678-493-6182.**

ASÍ LO ORDENA Y RESUELVE este día ____ de _____ de 202_.

EL JUEZ:

Juez del Tribunal
Estatal Condado de
Cherokee

Cherokee County DUI or Misdemeanor Drug Court Session

You have been ordered to attend ONE session of the Cherokee County DUI Court or the Cherokee County Misdemeanor Drug Court. In order to schedule your session you must go to Suite 370 of the Cherokee County Justice Center (90 North Street, Canton, GA, 30114) and pay \$125.00 in the form of a money order and sign paperwork. You will be placed on the next available court date to attend on a first come, first served basis. Please keep in mind payments will not be accepted the day of Court. Call if you have questions 678-493-6450. Hours are typically 8:00am to 5:00pm Monday through Thursday and 8:00am to 12:00pm on Friday, closed for lunch and Court.

As a part of my participation in the Pretrial Diversion Program, I understand that I am to attend ONE session of:

- The Cherokee County DUI Court _____ (defendant's initials).
- The Cherokee County Misdemeanor Drug Court _____ (defendant's initials).

UNDER 21 ONLY



OFFICE OF THE CHEROKEE COUNTY SOLICITOR- GENERAL

DIVERSION PROGRAMS FOR MINOR IN POSSESSION, V.G.C.S.A. OFFENSES, AND THEFT-RELATED OFFENSES

Effective Date: May 1, 2022

General Procedures and Requirements:

I. Program Eligibility:

- Defendants charged for the first time with Minor in Possession of Alcohol (MIP), V.G.C.S.A. offenses (such as Possession of Less Than One Ounce of Marijuana and Possession of Drug Related Objects), and theft-related offenses are eligible for (but are not guaranteed) diversion.
- The following factors will DISQUALIFY a defendant from admission into the diversion program:
 - A prior felony or misdemeanor *conviction* (with the exception of non-serious traffic offenses as determined by the Solicitor-General), including a plea under the First Offender Act and those in which the defendant either entered a *nolo contendere* plea or utilized the applicable conditional discharge statute;
 - A prior *arrest* for MIP, a V.G.C.S.A. offense, or a theft-related offense;
 - Any prior diversion of any charge in any jurisdiction of this State or another State;
 - Any arrest for, or charge of, another crime (with the exception of non-serious traffic offenses as determined by the Solicitor-General) after admission into the diversion program;

- Defendants charged with a divertible offense in conjunction with a serious traffic offense or an act of family violence are not eligible for diversion.
- Refusal to submit to an alco-sensor test, a State administered chemical test of any sort, or to permit the execution of a search warrant for blood after being arrested for DUI.
- Driving while MIP, whether or not a DUI charge resulted (i.e., the defendant drove and either an alco-sensor or a State administered chemical test showed the presence of alcohol; or the defendant drove and refused to submit to such a test or tests).
- Driving while smoking or using marijuana while under the age of 21, whether or not a DUI charge resulted (i.e., if the defendant drove and either admitted to using marijuana or a test showed the presence of THC or a metabolite of THC; or the defendant drove and refused to submit to such a test).
- **ADDITIONAL CONSIDERATIONS:**
 - If, upon completion of the program or at any time during the defendant's participation in the program, a criminal history check reveals that the defendant has been arrested during the pendency of or prior to the entry into the diversion program, eligibility for the program will terminate immediately.
 - If the defendant successfully completes the diversion program, the dismissing document (*nolle prosequi* order) will indicate that his/her record will be restricted insofar as allowed by law.

II. General Requirements:

- In order to ensure equal treatment for all defendants, there will be no deviations from the procedures and requirements contained herein.
- A defendant seeking diversion must either (a) be represented by an attorney (retained or appointed); or (b) assisted by a Cherokee County Attorney of the Day (AOD).
 - Defendants seeking to enter the diversion program with the assistance of an AOD must first execute a waiver of counsel

and then complete the required diversion paperwork with the help of the AOD.

- No AOD shall be responsible for the provision of any legal services to any defendant after they are accepted into the diversion program, and program compliance is the **SOLE RESPONSIBILITY OF THE *PRO SE* DEFENDANT.**
- Diversion Petitions and related forms may be picked up at the Solicitor-General's reception desk, or from Assistant Solicitors-General.
- Defendants must waive their right to a jury trial on the record *before* entering the program.
- Defendants must waive their 4th Amendment rights on the record *before* entering the program.
- A non-refundable program fee is required for entry into diversion, and must be paid on the date the defendant enters into the program. Payment is to be made by cash, credit card, money order or a check from an attorney's escrow account made payable to "Cherokee County Clerk of Courts." The memo portion of all escrow account checks must contain both the case number and the notation "PTD fee."
 - For defendants age 21 and over upon entry into the program, the diversion fee is \$350.00.
 - For defendants under the age of 21 upon entry into the program, the diversion fee is \$200.00.
- For truly indigent defendants, the program fee is waived upon completion of 40 additional hours of community service and payment of the \$50.00 fee required by the Office of Indigent Defense (unless waived in writing by that office). The Office of Indigent Defense will determine a defendant's indigency and will appoint an attorney in appropriate cases. An attorney appointment sheet must be attached to the diversion petitions of indigent defendants at the time the petition is filed. Proof of payment of the \$50.00 Indigent Defense fee in accordance with the requirements of the Office of Indigent Defense must be attached to the petition.
 - NOTE: *Pro se* defendants who elect to enter the program with the assistance of an AOD rather than seek an appointed attorney WILL NOT be considered indigent.

- **Defendants are deemed to have entered the program on the date that they appear with their attorney (where applicable) to waive their jury trial and 4th Amendment rights and to file the original, signed petition with the Clerk of Court *on the record*.**
- **After entering diversion, the Defendant will meet with Cherokee Probation Services (CPS) for an intake appointment no later than the Friday of the week following entry into the program. CPS will monitor the Defendant's progress on a monthly basis for the duration of the program.**
 - **Whenever required by CPS, the Defendant or his / her attorney must provide proof that the Defendant is successfully completing the requirements outlined in their specific diversion petition.**
 - **If at any time a Defendant or his/her attorney cannot provide proof of compliance as requested, or if the proof provided shows that the defendant has failed to make sufficient progress towards completion, CPS shall report the failure to comply to the assigned Assistant Solicitor-General as soon as possible. Defendants reported in this manner are subject to immediate termination from the program in the sole discretion of the assigned Assistant Solicitor-General.**
 - **Should new arrests, failed drug screens, or any other failure to fully and completely comply with the terms of the diversion agreement come to light or be discovered at any time by CPS, the same shall be reported to the assigned Assistant Solicitor-General as soon as possible. Defendants reported in this manner are subject to immediate termination from the program in the sole discretion of the assigned Assistant Solicitor-General.**
 - **Failure to appear for any meeting requested by CPS will result in the defendant's immediate termination from the program.**
 - **Upon a defendant's successful completion of the program, CPS will place their case on a calendar at which time their case will be submitted for dismissal by the assigned Assistant Solicitor-General. Unless specifically notified by the assigned Solicitor-General, there is no need for the defendant or his/her attorney to appear on that date.**

III. Procedures for Program Entry:

- Defendants seeking admission into the diversion program must appear in Court on the day they enter into the program.
- Defendants charged with Minor in Possession of Alcohol or a V.G.C.S.A. offense wishing to enter the diversion program must test clean on the day they enter into the program—NO EXCEPTIONS.
- Attorneys or an AOD must have the defendant review, initial, and sign the diversion petition.
 - For indigent defendants, the appointed attorney shall attach a copy of his/her appointment sheet and proof of payment of the Indigent Defense fee to the Diversion Petition.
 - For defendants under the age of 21, an essay written by the defendant about what they expect to do with the “second chance” provided to them by the diversion program must accompany the diversion petition. The essay must be two (2) legible handwritten pages (defined as two sheets of clean, standard rule loose leaf paper) – not typed. The essay needs to be submitted to the Assistant Solicitor-General with the petition at the time program admission is requested.
- AFTER the defendant has reviewed, initialed, and signed the diversion petition, the attorney or AOD should:
 - Deliver the initialed and signed petition (with the attached appointment sheet and essay where applicable) to the Assistant Solicitor-General assigned to the defendant’s case.
 - Have the assigned Assistant Solicitor-General review, approve, and sign the petition.
 - Appear before the assigned judge and enter the waivers of jury trial and the defendant’s 4th Amendment rights *on the record*. At the same time, the approved and signed original diversion petition must be filed with the Clerk of State Court *on the record*.
 - Upon a defendant’s successful completion of the program, CPS will place their case on a calendar, at which time their case will be submitted for dismissal by the assigned Assistant Solicitor-General. Unless specifically notified by the assigned Solicitor-General, there is no need for the defendant or his/her attorney to appear on that date.
 - After the waivers are entered and the original petition is filed with the Clerk in the Courtroom, the defendant or his/her attorney shall immediately go to the Cherokee Probation office

located in the Frank Mills Justice Center, sign up with Cherokee Probation, set the intake appointment, pay the required fee, and return to the Courtroom with the receipt. A copy of the receipt will be put into the State's file and the Clerk's file.

- If alcohol and/or drug testing is required as part of the defendant's diversion program, he/she will sign up for testing when he/she meets with Cherokee Probation. The registration packet for testing through the Cherokee County Drug Lab is also available online at <https://www.cherokeega.com/Drug-Lab/resources/documents/Donor%20Testing%20Registration%20Packet.pdf>. (Please note that testing does occur on Saturdays, Sundays, and holidays, as the Cherokee County Drug Lab is open on the weekend and holidays). Failure to enroll for testing as required *will result in immediate termination* from the program.
- It is the responsibility of the defendant's attorney to advise the defendant of the diversion completion deadline. In cases where a *pro se* defendant entered the program with the assistance of an AOD, the defendant is *personally responsible* for understanding the completion date and the importance of personally appearing in court at that time.



OFFICE OF THE CHEROKEE COUNTY SOLICITOR-GENERAL

DIVERSION PROGRAMS FOR V.G.C.S.A. OFFENSES

Effective Date: May 1, 2022

Offense-Specific Requirements:

II. V.G.C.S.A. Offenses:

- Provide a copy of a valid photo identification document to the assigned Assistant Solicitor-General.
- State under oath on the record this is his/her 1st offense, AND that he/she has never entered any other diversion program in this or any other state.
- Commit NO violations of the criminal laws of any governmental unit or any conditions of a bond in the current case in effect upon entry into the program.
 - The defendant must report any and all arrests or citations to their attorney, or if they entered the program with the assistance of a Cherokee County AOD, to Cherokee Probation within 48 hours.
- Stay away from and have no contact with any Co-Defendant(s), and testify truthfully at any trial or hearing of any Co-Defendant(s).
- Complete a drug and alcohol evaluation within 30 days of entry into the program, and any and all recommended treatment.
 - Evaluations must be conducted by a state-certified practitioner. These approved practitioners include: LPCs, LCSWs, LMFTs, Clinical PhDs in psychology, and MDs of psychiatry.
 - Evaluations should be completed early enough in the 150 day program period to allow sufficient time to complete all recommended treatment.

- Recommended treatment must begin with 10 days of the completion of the evaluation.
- Do NOT drink any alcohol or possess or use any illegal drugs.
- Submit to random breath or urine screens for the presence of alcohol or illegal drugs as directed by the Cherokee County Drug Lab, no less than twice per month.
 - Program participants must sign up for testing through the Cherokee County Drug Lab and follow all rules and regulations for such testing.
 - Program participants will sign up for testing when they meet with Cherokee Probation Services, or as otherwise directed by the Assistant Solicitor-General assigned to the case. Failure to enroll for testing as required will result in immediate termination from the program.
 - A registration packet to sign up for testing through the Cherokee County Drug Lab is available online at <https://www.cherokeega.com/Drug-Lab/resources/documents/Donor%20Testing%20Registration%20Packet.pdf>
 - Testing will be at the defendant's expense and presently costs \$35 per test.
 - Defendants may pay using a credit/debit card, or must have a money order for \$35 each time (s)he appears at the lab for testing to cover the cost of the test.
 - A release form must be signed, and all results will be sent directly to Cherokee Probation.
 - If requested by defense counsel or a *pro se* defendant, and for good cause, the assigned Assistant Solicitor- General MAY BUT IS NOT REQUIRED TO allow the defendant to complete certain drug/alcohol screens at a certified, established drug facility other than the Cherokee County Drug Lab. Such deviations will be considered on a test-by-test basis, and permission to utilize an alternative facility on one occasion DOES NOT extend to ANY subsequent tests. Permission to test elsewhere may be granted based on the emergence of extenuating circumstances, and is solely at the discretion of the Assistant Solicitor-General assigned to the case.

- Diluted screens present significant problems for defendants in the diversion program. Second and subsequent diluted screens WILL be deemed positive screens and may, in the sole discretion of the assigned Assistant Solicitor-General, result in termination from the program.
- Missed screens also present significant problems for defendants in the diversion program. The Solicitor-General will not terminate a defendant for a single missed screen. HOWEVER, a second missed screen WILL result in termination from the program, regardless of the reason, and without exception.
- Perform Community Service:
 - Provide proof of community service on the letterhead of an approved 501(c)(3) charity signed by a representative of the charity, with a contact name and number for verification. Cherokee Probation will provide a list of approved community service locations. Should a defendant wish to complete community service at a non-approved location, (s)he and/or his/her attorney must get written approval of the alternative location from the assigned Assistant Solicitor-General *prior to* beginning community service at such a location.
 - The defendant will be required to complete forty (40) hours of community service.
- Within 90 days of entry into the program, attend one (1) session of the Cherokee County Misdemeanor Drug Court and pay the \$125.00 fee.
- Complete both the Civics Academy Drug & Alcohol Awareness Program (can be completed online) within 90 days, and one or more of the following, as specified by the assigned Assistant Solicitor-General (programs CANNOT be completed online unless specifically noted):
 - MADD victim impact panel;
 - Risk Reduction Program;
 - The STOP class (CAN be completed online);
 - Defensive Driving Program;
 - Alive@25;

- **Traffic Violators Impact Program (TVIP).**
- **Restitution, if any, will be determined by the assigned Assistant Solicitor-General and must be paid IN FULL before the end of the 150 day diversion period. If a defendant fails to make restitution within that timeframe, they are subject to termination from the program even if all other requirements have been satisfied. Restitution payments will be paid through the Cherokee County Clerk of Court.**
 - **In cases where the defendant was not fingerprinted at the time he/she was arrested or cited, be fingerprinted for GCIC purposes within 10 days of entry into the program.**